

Date: March 8, 2006

Item No. **1**

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Kim Duncan

Public Hearing: Yes: X No:

Notices Mailed On: 2/24/06

Published On: 2/23/06

Posted On: 2/24/06

TITLE: MINOR TENTATIVE PARCEL MAP NO. MI2006-1

Proposal: Request approval to subdivide a 2.31-net acre parcel to create a 1.069-acre parcel and a 1.239-acre parcel.

Location: 163 and 169 North Main Street

APN: 022-08-041 & 042

RECOMMENDATION: Approval to City Council with conditions

Applicant: City Initiated

Property Owner: City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035

Previous Action(s): 'S' Zone Approval, Use Permit, EIR, Rezone

General Plan Designation: Mixed Use

Environmental: Categorically exempt pursuant to Class 15, Section 15315 ("Minor Land Divisions") of the California Environmental Quality Act Guidelines

Present Zoning: Mixed Use with Transit-Oriented Development Overlay (MXD-TOD)

Existing Land Use: Locally historic, unoccupied residence

Agenda Sent To: Property Owner, Mid-Peninsula Housing Coalition, Santa Clara County

Attachments: Site Plan

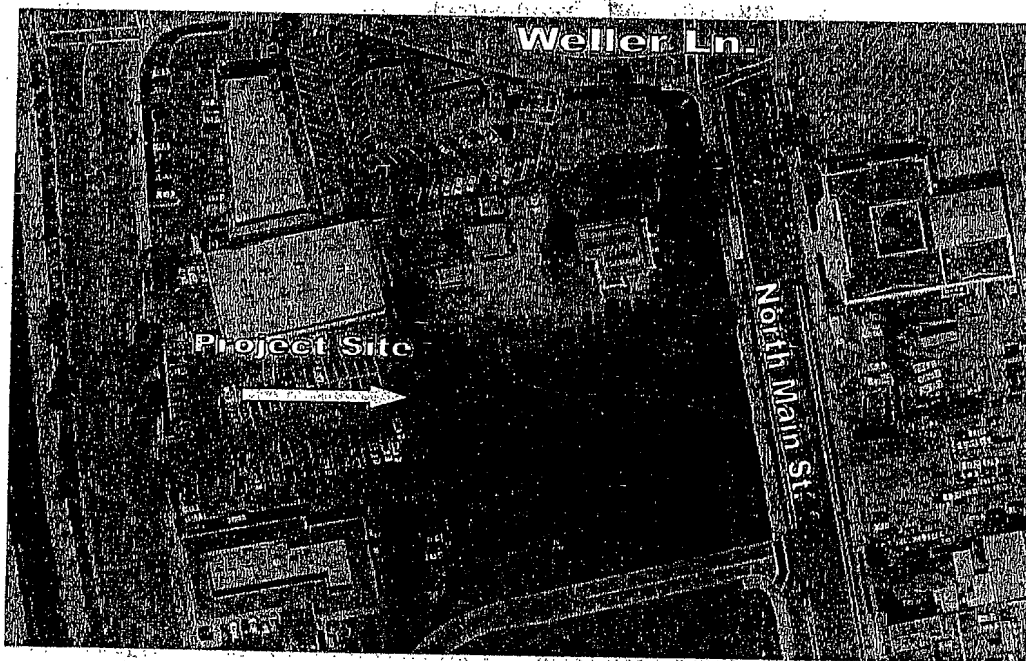
PJ: n/a

BACKGROUND

The DeVries Home was built in 1915 for Dr. Renselar J. Smith, the second doctor in the City, who occupied the home with his family and operated his practice out of an office on the first

floor. The DeVries family purchased the home in the 1950's and lived there through the 1980's. The home was designated as a local (City) Cultural Resource on November 18, 1986 by the City Council.

In the mid 1990's, the City acquired the property in 2 separate purchases for Parcel 1 and Parcel 2 from the DeVries family and it has remained unoccupied. On September 7, 2004, the City Council approved a Memorandum of Understanding for the future Santa Clara County Medical facility. On July 27, 2005 and August 16, 2005, the Planning Commission and City Council respectively approved an application for a Senior Housing Development project that included relocation, renovation, and incorporation of the DeVries House into the project. The approval included a Use Permit for deviations to required front yard setbacks. The City recently executed a Development and Disposition Agreement (DDA) with the MP Milpitas Affordable Housing Associates (Mid-Peninsula Housing Coalition) for a portion of this property. In accordance with the subject agreement, the City is initiating a minor tentative parcel map to create a separate parcel with the agreed dimensions, easements, and acreage to be transferred to Mid-Peninsula Housing Coalition.



163 North Main Street

Site Description

The project site is approximately 2.31-acres that consists of two approximately 1.237-gross acre parcels (Parcel 1 and Parcel 2), located on the west side of North Main Street, south of Weller Lane and North of West Calaveras Boulevard/237 overpass. Winsor Avenue lies to the east and North Abel Street is to the west. Existing developments in the area consist of a church and residential to the north, commercial retail to the west, two undeveloped parcels to the south and a mixture of commercial, automotive and residential to the east.

Parcel 1 is currently developed with a two-story, 4,250 square foot residence (DeVries House) situated in the center of the property with driveway access off of North Main Street. Along with

the house, the site contains four outbuildings (a garage, apartment building, shed and tank house) in the rear and ornamental plants and fruit trees. Parcel 2 is currently not developed and remains a vacant lot.

These parcels are within the Midtown Specific Plan area and were rezoned, along with the surrounding properties, to Mixed-Use with a Transit Oriented Development (MXD-TOD) overlay in April 2002. This area of the plan, known as the North Main Street Development area, has several new developments planned which include a Santa Clara County Medical facility on Parcel 2, a public parking garage further south, new Milpitas Library and associated parking garage just east of the site at the old Grammar School, and a mixed-used residential and retail development (Apton Plaza) northeast of the subject site.

THE APPLICATION

The application is submitted pursuant to Chapter 1 (Subdivisions), Section 4.00 (Tentative Map) of the Milpitas Municipal Code Subdivision Ordinance.

PROJECT DESCRIPTION

The applicant is requesting approval for a tentative parcel map to subdivide a 2.31-net acre parcel to create an approximately 46,559 square foot (1.069-net acre) parcel (Parcel 1) and an approximately 53,989 square foot (1.239-net acre) parcel (Parcel 2). The current property line (not recorded) between these two properties would shift slightly to the south approximately ten (10) feet. The purpose of the proposed subdivision is to formally record Parcel 1 and Parcel 2 as two separate lots of record for the purpose of future land transactions and, ultimately, development.

TENTATIVE MAP

This Minor Tentative Parcel Map application has been submitted to subdivide an existing 2.31-net acre parcel to two (2) parcels as formal lots-of-record for the purpose of developing senior housing on Parcel 1 and sale of Parcel 2 for future development as a County Health Facility. At this time, a property line that is not formally recorded divides the two (2) parcels. According to the Tentative Parcel Map, Parcel 1 is approximately 1.237-gross acres and Parcel 2 is approximately 1.237-gross acres. The proposed tentative map will adjust the existing property line (not recorded) between the two parcels and create two new lots-of-record: Parcel 1-1.069-net acres and Parcel 2-1.239-net acres.

Existing easements on the project site consists of emergency vehicle access and rubbish removal on Parcel 1, PG&E along the north of Parcel 2, as well as street, sidewalk, and utility easements along North Main Street (both parcels). Proposed easements include a five (5) foot public service utility easement along North Main Street (both parcels), and private utility and joint access easements between the two parcels.

ISSUES

Conformance with the General Plan

The proposed project does not conflict with the General Plan and is consistent with Guiding Principle 2.a-G-2 and Implementing Policy 2.aI-2 that provide for a relatively compact urban form and promote in-fill development. The project site is located in the Midtown Specific Plan

Area that is proposed for redevelopment. Subdividing these parcels into separate parcels will promote future infill development within a developed urban area.

Conformance with the Zoning Ordinance

The project is in conformance with the Zoning Ordinance in terms of land use in that no change in land use is proposed as part of this minor tentative parcel map application and any future land uses would be subject to the permitted and conditional uses allowed in the Mixed Use Transit-Oriented Development (MXD-TOD) District.

As stated in the Background section above, the City Council approved a Use Permit for a reduction to the building front setback as part of the Senior Housing project. As part of this application, staff analyzed the approved Senior Housing development project in relation to the proposed tentative map application to ensure conformance with the approved setbacks. Staff determined the proposed subdivision would accommodate the approved setbacks of the Senior Housing project. In addition, Santa Clara County reviewed the proposed minor tentative parcel map and determined it is consistent with County documents in regards to the Emergency Vehicle Access, Rubbish Removal, and Joint Access easements.

Conformance with the State Subdivision Map Act and Subdivision Ordinance

The Subdivision Map Act defers the approval of minor tentative parcel map applications to local ordinances (Article 5, Section 66463). The City's Subdivision Ordinance requires design and improvement consistency with the General Plan. As previously mentioned, the proposed Minor Tentative Parcel Map is in conformance with the General Plan.

Conformance with CEQA

The project is categorically exempt from further environmental review pursuant to Class 15, Section 15315 ("Minor Land Divisions) of the Environmental Quality Act (CEQA) guidelines. This section exempts such projects involving the division of property in urbanized area into four or fewer parcels when the division is in conformance with the General Plan and Zoning Ordinance. As discussed above, the proposed project is located in a developed, urbanized area and conforms to the General Plan and Zoning Ordinance.

RECOMMENDATION

Close the public hearing. Approve Minor Tentative Parcel Map No. MI2006-1 based on the findings and special conditions listed below:

FINDINGS

California Environmental Quality Act

1. The project is categorically exempt from further environmental review pursuant to Class 15, Section 15315 ("Minor Land Divisions) of the Environmental Quality Act (CEQA) guidelines in that the proposed subdivision involves the division of less than four parcels and is in conformance with the General Plan and Zoning Ordinance.

General Plan

2. The proposed project is consistent with the Milpitas General Plan in that it is consistent with:
 - Guiding Principle 2.a-G-2, in that the project site is located within a developed urban area which provides for a relatively compact urban form;
 - Implementing Policy 2.aI-2, which promotes in-fill development in the incorporated city limits. The project site is located within the Midtown Specific Plan area that is located within a redevelopment area.

Zoning Ordinance

3. The proposed project is consistent with the Milpitas Zoning Ordinance in that the proposed subdivision conforms to the land use and development standards of the Mixed-Use Transit-Oriented Development District.

Subdivision Map Act and Subdivision Ordinance

4. The proposed project is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that the proposed subdivision, design, and improvements are consistent with the General Plan.
5. The site is physically suitable for the type of development proposed because the project site is relatively flat, currently developed with one residential structure, and located adjacent to developed properties.
6. The site is physically suitable for the proposed density of development because the project is in conformance with the General Plan density requirements, and the Zoning Ordinance (as previously approved) in terms of yard requirements.
7. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife and their habitat because the proposed project is for a minor tentative parcel map for a 2-lot subdivision with associated easements and the project site is located within an existing urban area. The North Main Street Development EIR determined that such resources are not present on this site.
8. That the design of the subdivision or type of improvements are not likely to cause serious public health problems because the project, as proposed, will provide emergency vehicle access easements for both parcels and because the parcels will be developed according to City of Milpitas requirements.
9. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because, as conditioned, all appropriate encroachment easements will be obtained prior to any future construction activities, and access to property will be from a city maintained public street.

SPECIAL CONDITIONS

1. This approval is for Minor Tentative Parcel Map No. MI2006-1 to create two separate parcels located at 163 North Main Street (APN: 022-08-041) and (APN: 022-08-042) as depicted on the Tentative Parcel Map dated March 8, 2006, and as amended by the conditions of approval. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state and local regulations. (P)
3. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
4. The tentative map and the parcel map shall designate all common lots and easements as lettered lots or lettered easements. (E)
5. The developer shall dedicate on the parcel map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes. (E)
6. The developer shall record a reciprocal easement and maintenance agreement concurrent with the recordation of the parcel map. The reciprocal agreement shall provide for the use of lands and maintenance of all private utility facilities including but not limited to, drainage, sewer, water, landscaping, walls and other common area facilities. (E)
7. Prior to recordation of any parcel map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All final maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
8. The parcel map shall be recorded prior to issuance of any building permit. (E)
9. Make changes as noted on Engineering Services Exhibit "T" (dated 2/27/2006) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. No application for the review of the parcel map or improvement plans will be accepted until this condition is satisfied. (E)

(P) Planning Division

(E) Engineering Division

**CITY OF MILPITAS
UNAPPROVED**

PLANNING COMMISSION MINUTES

March 8, 2006

**I.
PLEDGE OF
ALLEGIANCE**

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.
ROLL CALL**

Present: Ali-Santosa, Azevedo, Ciardella, Galang, Mandal, Tabladillo and Williams

Absent: None

Staff: Bejines, Carrington and Pio Roda

**III.
PUBLIC FORUM**

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers from the audience.

**IV.
APPROVAL OF MINUTES
February 22, 2006**

Chair Williams called for approval of the minutes of the Planning Commission meeting of February 22, 2006.

Chair Williams noted that on page 9, he voted no on Major Tentative Parcel Map No. MA2005-9.

Motion to approve the February 22, 2006 minutes with the changes.

M/S: Azevedo/Mandal

AYES: 6

NOES: 0

ABSTENTIONS: 1 (Ciardella-Absent at the February 22nd meeting)

**V.
ANNOUNCEMENTS**

Staff asked the Commission to sign the Open Government Ordinance declaration of attendance.

**VI.
CONFLICT
OF INTEREST**

Chair Williams asked if the Commission has any conflict of interest on tonight's agenda.

There were no Commissioners that identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams called for approval of the agenda.

Staff had no changes.

Chair Williams recommended that Item Nos. 2 and 3 be put on the consent calendar.

Motion to add Item Nos. 2 and 3 to the consent calendar.

M/S: Azevedo/Galang

AYES: 7

NOES: 0

VIII.
CONSENT CALENDAR
Item Nos. 1, 2 and 3

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Staff had no changes to the consent calendar.

Assistant City Attorney Pio Roda stated that staff received an unsigned anonymous letter for Use Permit No. UP2005-26 and "S" Zone Approval Amendment No. SA2005-85 stating the following:

"I am a resident on Sandalwood Lane. To locate cellular antennas in a school may not be good for children's health. Can it be moved to the county park near 680 and 237?"

Chair Williams explained that the Telecom Commission has already done a thorough review of the project. The resident is addressing radiation emissions, which doesn't fall under the purview of the Planning Commission but is well under the safe limits of the requirements.

Chair Williams opened the public hearing on Consent Item Nos. 1, 2 and 3.

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing on Consent Item Nos. 2 and 3 and continue Item No. 1 to March 22, 2006.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

Motion to approve the consent calendar on Consent Item Nos. 1, 2 and 3.

M/S: Azevedo/Mandal

AYES: 7

NOES: 0

***1 USE PERMIT NO. UP2005-27 AND "S" ZONE APPROVAL AMENDMENT NO. SA2006-10:** A request to locate six (6) panel antennas and four (4) associated equipment cabinets in the Great Mall Tower sign and install a roof top penthouse for the operation of the omnipoint T-Mobile network located at 447 Great Mall Drive. *(Recommendation: Continue to March 22, 2006)*

***2 MINOR TENTATIVE PARCEL MAP NO. MI2006-1:** A request to subdivide an approximately 2.474 acre parcel into two (2) parcels, 1.069 acres and 1.239 acres, respectively, located at the northeast portion of North Main Street and I-237 at 163 North Main Street. *(Recommendation: Approval with Conditions)*

***3 USE PERMIT NO. UP2005-26 AND "S" ZONE APPROVAL AMENDMENT NO. SA2005-85:** A request to locate cellular antennas in an existing stadium light pole, and an associated equipment cabinet, at the Milpitas High School stadium at 1285 Escuela Parkway. *(Recommendation: Approval with Conditions)*

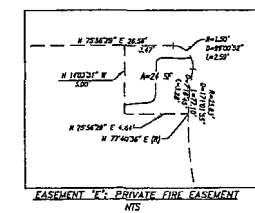
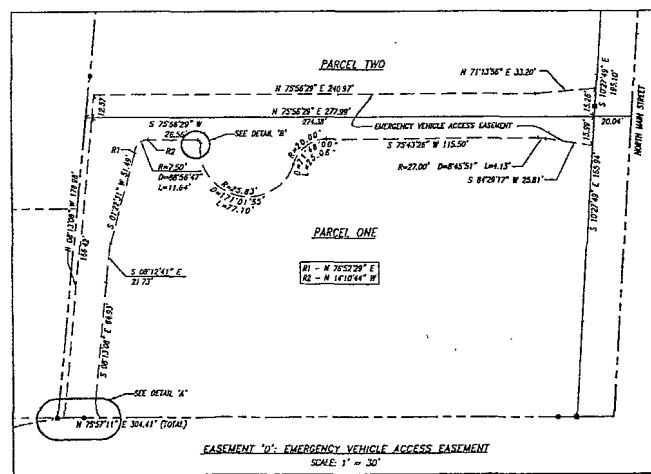
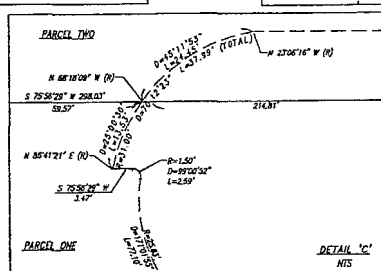
IX.
ADJOURNMENT

The meeting was adjourned at 7:10 p.m. to the next regular meeting of March 22, 2006.

Respectfully Submitted,

Tom Williams
Planning and Neighborhood Services
Director

Veronica Bejines
Recording Secretary

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